

Part 9

Adoption Assistance

62A-4a-901 Legislative purpose.

The purpose of this part is to provide adoption assistance to eligible adoptive families to establish and maintain a permanent adoptive placement for a child who has a special need and who qualifies under state and federal law.

Enacted by Chapter 115, 2001 General Session

62A-4a-902 Definitions.

- (1)
 - (a) "Adoption assistance" means direct financial subsidies and support to adoptive parents of a child with special needs or whose need or condition has created a barrier that would prevent a successful adoption.
 - (b) "Adoption assistance" may include state medical assistance, reimbursement of nonrecurring adoption expenses, or monthly subsidies.
- (2) "Child who has a special need" means a child who cannot or should not be returned to the home of his biological parents and who meets at least one of the following conditions:
 - (a) the child is five years of age or older;
 - (b) the child is under the age of 18 with a physical, emotional, or mental disability; or
 - (c) the child is a member of a sibling group placed together for adoption.
- (3) "Monthly subsidy" means financial support to assist with the costs of adopting and caring for a child who has a special need.
- (4) "Nonrecurring adoption expenses" means reasonably necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of a child who has a special need.
- (5) "State medical assistance" means the Medicaid program and medical assistance as defined in Subsections 26-18-2(4) and (5).
- (6) "Supplemental adoption assistance" means financial support for extraordinary, infrequent, or uncommon documented needs not otherwise covered by a monthly subsidy, state medical assistance, or other public benefits for which a child who has a special need is eligible.

Amended by Chapter 116, 2006 General Session

62A-4a-903 Eligibility.

- (1) The Division of Child and Family Services shall establish, by rule, eligibility criteria for the receipt of adoption assistance and supplemental adoption assistance.
- (2) Eligibility determination shall be based upon:
 - (a) the needs of the child;
 - (b) the resources available to the child; and
 - (c) the federal requirements of Section 473, Social Security Act.
- (3) The division:
 - (a) may, to the extent funds are available, use state funds appropriated for adoption assistance to provide post-adoption services to a child who is adopted from the custody of the division; and
 - (b) unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, may not require, request, or recommend that a parent

terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive post-adoption services for the child, regardless of whether funds for the post-adoption services come from funds appropriated for adoption assistance or post-adoption services.

Amended by Chapter 219, 2016 General Session

62A-4a-904 Adoption assistance.

- (1) Pursuant to federal requirements of 42 U.S.C. Sec. 670 et seq., Social Security Act, the Division of Child and Family Services:
 - (a) shall provide for:
 - (i) payment of nonrecurring adoption expenses for an eligible child who has a special need; and
 - (ii) state medical assistance when required by federal law; and
 - (b) may provide for monthly subsidies for an eligible child who has a special need.
- (2) Payment of nonrecurring adoption expenses may not exceed \$2,000 and shall be limited to costs incurred prior to finalization of an adoption.
- (3) The level of monthly subsidy under Subsection (1)(b) shall be based on:
 - (a) the child's present and long-term treatment and care needs; and
 - (b) the family's ability to meet the needs of the child.
- (4)
 - (a) The level of monthly subsidy may increase or decrease when the child's level of need or the family's ability to meet the child's need changes.
 - (b) Either the family or the division may initiate changes to the monthly subsidy.
- (5) Financial support provided under Subsection (1)(b) may not exceed the maximum foster care payment or residential room and board payment that would be paid at the time the subsidy amount is initiated or revised.

Enacted by Chapter 115, 2001 General Session

62A-4a-905 Supplemental adoption assistance.

- (1) The division may, based upon annual legislative appropriations for adoption assistance and division rules, provide supplemental adoption assistance for children who have a special need. Supplemental adoption assistance shall be provided only after all other resources for which a child is eligible have been exhausted.
- (2)
 - (a) The department shall, by rule, establish in each region at least one advisory committee to review and make recommendations to the division on individual requests for supplemental adoption assistance. The committee shall be comprised of the following members:
 - (i) an adoption expert;
 - (ii) an adoptive parent;
 - (iii) a division representative;
 - (iv) a foster parent; and
 - (v) an adoption caseworker.
 - (b) The division policy required in Subsection (1) shall include a provision which establishes a threshold amount for requests for supplemental adoption assistance that require review by the committee established in this Subsection (2).

Amended by Chapter 75, 2009 General Session

62A-4a-906 Termination or modification of adoption assistance.

- (1) Adoption assistance may not be terminated or modified unless the division has given adoptive parents notice and opportunity for a hearing as required in Title 63G, Chapter 4, Administrative Procedures Act.
- (2) Adoption assistance shall be terminated if any of the following occur:
 - (a) the adoptive parents request termination;
 - (b) the child reaches 18 years of age, unless approval has been given by the division to continue beyond the age of 18 due to mental or physical disability, but in no case shall assistance continue after a child reaches 21 years of age;
 - (c) the child dies;
 - (d) the adoptive parents die;
 - (e) the adoptive parent's legal responsibility for the child ceases;
 - (f) the state determines that the child is no longer receiving support from the adoptive parents;
 - (g) the child marries; or
 - (h) the child enters military service.

Amended by Chapter 382, 2008 General Session

62A-4a-907 Interstate compact adoption assistance agreements.

- (1) As used in this section:
 - (a) "Adoption assistance" means financial support to adoptive parents provided under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act.
 - (b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents, or between any other state and adoptive parents, providing for adoption assistance.
- (2) The division may develop and negotiate interstate compacts for the provision of medical identification and assistance to adoptive parents who receive adoption assistance. An interstate compact shall include:
 - (a) a provision for joinder by all states;
 - (b) a provision for withdrawal from the compact upon written notice to the parties, with a period of one year between the date of the notice and the effective date of withdrawal;
 - (c) a requirement that each instance of adoption assistance to which the compact applies be covered by a written adoption assistance agreement between the adoptive parents and the agency of the state which initially agrees to provide adoption assistance, and that any agreement is expressly for the benefit of the adopted child and is enforceable by the adoptive parents, and by the state agency providing adoption assistance;
 - (d) a provision that a child who is the subject of an adoption assistance agreement with another party state, and who subsequently becomes a resident of this state, shall receive medical identification and assistance in this state under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement;
 - (e) a provision that a child who is the subject of an adoption assistance agreement with the division, and who subsequently becomes a resident of another party state, shall receive medical identification and assistance from that state under the Adoption and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement; and

- (f) a requirement that the protections of the compact continue for the duration of the adoption assistance and apply to all children and their adoptive parents who receive adoption assistance from a party state other than the state in which they reside.
- (3)
 - (a) The division shall provide services to a child who is the subject of an adoption assistance agreement executed by the division, and who is a resident of another state, if those services are not provided by the child's residence state under an interstate compact.
 - (b) The division may reimburse the adoptive parents upon receipt of evidence of their payment for services for which the child is eligible, which were not paid by the residence state, and are not covered by insurance or other third party medical contract. The services provided under this subsection are those for which there is no federal contribution, or which, if federally aided, are not provided by the residence state.

Renumbered and Amended by Chapter 115, 2001 General Session